REMARKS

This is in response to the Office Action mailed April 14, 2006. By this Response, Applicant has canceled Claims 2-3 and 5-9, so that Claims 1, 4 and 10-18 remain pending.

By the Office Action, the Examiner indicated the rejection of Claims 7 and 11 under 35 U.S.C. § 112(2). The Examiner indicated the rejection of Claims 1-4 under 35 U.S.C. § 102(e) as being anticipated by Fuhrman (USPN 6,591,462), and the rejection of Claims 5-18 under 35 U.S.C. § 103(a) as being unpatentable over FDP Magnetics alone or in view of Fontana (USN 4625508)

Section 112 Rejection

Applicant has amended Claims 7 and 11 to make them consistent with Claim 10.

Claims 1 and 4 Relative to Fuhrman

Applicant asserts that Claims 1 and 4, as amended, are patentable over Fuhrman. Claim 1 now recites an ornamental element comprising a plurality of solid titanium links having associated magnetic elements and including a pair of clasp members at opposing ends for connecting the links into a closed loop. As the Examiner indicates, Fuhrman only discloses jewelry clasps which include magnets. Fuhrman does not disclose an ornamental element comprising a plurality of links with associated magnetic elements as claimed.

Claims 10-14 Relative to FDP Magnetics

The FDP Magnetics reference discloses plated magnetic jewelry. In relation to the previous arguments and Declaration of Jeffrey Dunmire that the invention is distinguishable over FDP Magnetics because of the precious metal configuration of the links The Examiner noted that Claim 10 'doesn't even require that the link be made from a precious metal.' Claim 10, as amended, requires that the links be constructed from solid precious metal. As indicted in the prior-submitted Declaration, this configuration overcomes problems associated with link plating, such as wearing and scaling which ultimately result in exposure of the base metal and resulting issues of skin discoloration and the like associated with steel and similar base metals.

Relative to Claim 10, Applicant also again asserts that it is not obvious to simply increase "magnet size" as suggested by the Examiner. The Examiner suggests that it would be obvious to increase the size of the of the magnet, thereby invariably increasing the ratio between the surface area of the magnet and the surface area of the link.

As indicated previously and as supported by the prior-submitted Declaration, this is not the case. First, Applicant asserts that the prior art which the Examiner has cited discloses only a single magnet configuration: that of a circular magnet located in a mating circular hole in the link (while the Examiner has indicated that "the problem of creating an oval recess was solved many times over and with many different techniques" the Examiner has cited no prior art which discloses this concept, let alone specifically with regard to magnetic jewelry where the magnet and mating recess must be formed independently and yet in a manner that when the magnet is inserted into the recess, it lies flush and the fit is visually acceptable).

If one starts with the sole disclosed configuration in the prior art, that of a circular magnet in a circular recess, the result of the Examiner's suggestion is that the size of the circular magnet is increased. As indicated previously, in the case of elongate jewelry elements, such as bracelet links, the maximum size of the magnet is constrained. In particular, the diameter of the magnet must be chosen so that it fits within the smallest dimension of the link (the narrow "height" of the link) and still retain sufficient link "edge" material to ensure link integrity. As a result, current magnetic jewelry configurations have a magnet to link surface area which is very low (for example, if a link were 0.5 inches long and 0.25 inches tall, with a magnet diameter of 0.125, then the ratio of magnet area (0.01227) to link area (0.125) is a mere 9.8%).

Thus, when considering this configuration, an increase in the size of the magnet (which results in an increase in diameter and depth of the magnet) necessitates a corresponding increase in the size of the link to accommodate the magnet (to maintain the required supporting link material surrounding the magnet). This, however, causes the total size and mass of the jewelry to increase undesirably. Moreover, even if such a step were taken, as magnet size increases, so does link size, thus causing the ratio of magnet surface area to link surface area to at most remain stagnant, if not decrease. See previously submitted J. Dunmire Declaration at ¶¶ 5, 11 and 13.

To the extent that Examiner asserts that another magnetic element configuration is suggested, Applicant disagrees. First, as indicated above, there is no teaching of any other configuration. Moreover, there is a teaching away from changing the shape of the magnet from the circular configuration to another configuration in attempt to increase the surface area thereof relative to the link. Among other things, the circular/cylindrical magnet configuration is favored owing to a number of factors such as reduction in stress points. See previous submitted J. Dunmire Declaration

at ¶¶ 13-14. In addition, as noted in the previously submitted Declaration, owing to the fact that the only known acceptable technique for forming the magnets and mating recesses is by use of a circular punch, there is a teaching away from other magnet and recess shapes which can not obviously be formed using the existing technique (Applicant appreciates the Examiner's comments regarding potential claims to the method of forming an oval magnet and recess. Because the evidence supports that formation of an oval magnet and mating recess is not obvious, Applicant asserts that neither is a link having that configuration).

Claims 15-18 Relative to FDP Magnetics

Similar to Claims 10-14, Applicant again asserts that the prior art does not teach or suggest a bracelet of precious metal links having associated magnetic elements and having clasps for closing the bracelet. Moreover, for similar reasons detailed above, Applicant asserts that the prior art does not teach or suggest such a configuration where the magnetic elements are oval in shape, with an elongate portion of the oval aligned in a length-wise direction of the link.

As indicated above, none of the prior art cited by the Examiner teaches or suggests an oval magnet configuration. Further, Applicant has rebutted the assertion that such a configuration would be an obvious design choice, owing to the known benefits of circular designs and the then existing difficulties in creating magnets and mating recesses of other shapes (whether oval or otherwise).

Relative to Claim 16, Applicant asserts that the prior art does not teach or suggest the claimed location of the magnet relative to the link. As noted in the application, this configuration allows the length of the oval magnet to be maximized while preserving the integrity of the link.

Summary

Applicant thanks the Examiner for his careful review of the application and detailed comments regarding the prior art and the scope of Applicant's arguments and evidence relative to the claims. In accordance with the Examiner's comments, Applicant has amended various of the claims. Claims 1, 10 and 15 now recite links constructed from solid titanium or other precious metal. These limitations are now commensurate with Applicant's arguments and evidence that such a link configuration is non-obvious and beneficial. Applicant has also addressed the assertion that an increase in magnet surface area to the link surface area is obvious, let alone the claimed configuration of surface area ratio, magnet shape or magnet location. While various entities have introduced products having various of the claimed features after Applicant's introduction of its products, products having these features are not found in the prior art. See previously submitted Declaration at ¶ 17.

Applicant asserts that Claims 1, 4 and 10-18 are in a condition for allowance. If any matters remain outstanding, the Examiner is invited to contact the undersigned by telephone.

Respectfully submitted,

Dated: May 31, 2006 By: _____

R. Scott Weide
Registration No. 37,755
Weide & Miller, Ltd.
Bank West Building, 5th Floor
7251 West Lake Mead Blvd., Suite 530
Las Vegas, NV 89128
(702) 382-4804 (Pacific time)